

*Amendment to and Listing of the Claims:*

Please amend claims 1, 3, 7, 8 and 9, as shown in the Listing of Claims.

Please cancel claim 11.

This listing of claims will replace all prior versions, and listings, of claims in the application.

**Listing of Claims:**

1(currently amended). A DNA construct comprising nucleic acid encoding an influenza virus gene, wherein said DNA construct consists of a plasmid backbone selected from the group consisting of pnRSV, V1, V1J, V1JR, V1Jns and V1Jneo and is capable of inducing the expression of an antigenic influenza virus gene product which induces ~~an influenza virus~~ a specific immune response against an influenza virus upon introduction of said DNA construct into animal tissues *in vivo* and resultant uptake of the DNA construct by cells which express the encoded influenza gene.

2(original). The DNA construct of Claim 1 wherein the influenza virus gene encodes nucleoprotein, hemagglutinin, polymerase, matrix, or non-structural human influenza virus gene products.

3(currently amended). A polynucleotide vaccine comprising a DNA construct which induces, upon introduction of said polynucleotide vaccine into animal tissue in vivo, neutralizing antibody against human influenza virus, or influenza virus-specific cytotoxic lymphocytes, or a protective immune response against a infection with a human influenza virus ~~responses upon introduction of said DNA pharmaceutical into animal tissues in vivo,~~ wherein the animal is a vertebrate, and the polynucleotide vaccine consists of a plasmid backbone selected from the group consisting of pnRSV, V1, V1J, V1JR, V1Jns and V1Jneo and encodes an influenza virus gene which is expressed upon introduction into said vertebrates' tissues *in vivo*.

Claims 4-6 (canceled).

7(currently amended). A method for protecting against illness associated with host infection by human influenza virus which comprises immunization of said host with a prophylactically effective amount of the DNA of Claim 1.

8(currently amended). A method for protecting against illness associated with host infection by human influenza virus which comprises immunization of said host with a prophylactically effective amount of the DNA of Claim 3.

9(currently amended). A method for protecting against illness associated with host infection by human influenza virus which comprises immunization of said host with a prophylactically effective amount of the DNA of Claim 2.

10(original). The method of Claim 7 which comprises direct administration of the DNA into tissue in vivo.

Claim 11-16 (canceled).

17(original). The method of Claim 7 wherein said host ~~the organism~~ being treated by the method is a human.

Claims 18-25 (canceled).